

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**BARKAN WIRELESS IP HOLDINGS,  
L.P.,**

**Plaintiff,**

**v.**

**SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA,  
INC., VERIZON COMMUNICATIONS,  
INC. and CELCO PARTNERSHIP d/b/a  
VERIZON WIRELESS,**

**Defendants.**

**C.A. No. 2:18-cv-00028**

**JURY TRIAL DEMANDED**

**STIPULATION OF DISMISSAL WITHOUT PREJUDICE  
AS TO DEFENDANT VERIZON COMMUNICATIONS INC.**

Plaintiff Barkan Wireless IP Holdings, L.P. (“Barkan”) and Defendants Verizon Communications Inc. (“VCI”) and Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”) submit the following Stipulation of Dismissal Without Prejudice as to Defendant VCI and in support thereof state:

1. On January 30, 2018, Barkan filed suit against VCI, Verizon Wireless, Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. for infringement of U.S. Patent Nos. 8,014,284 (“the ‘284 patent”), 8,559,312 (“the ‘312 patent”), and 9,392,638 (“the ‘638 patent”) (collectively, the “Patents-in-Suit”).

2. VCI and Verizon Wireless represent and warrant that:

a. VCI is a holding company that has no employees, sales representatives, or distributors. Furthermore, VCI does not instruct, direct, or control the activities of its subsidiaries (or any other entity) relevant to (i) the operation or design of any cellular

telephone communications network; or (ii) the operation or design of wireless device features and functionality.

b. VCI and Verizon Wireless agree that for purposes of discovery in this case, documents and information in the possession, custody or control of VCI or any of its subsidiaries are deemed also to be in the possession, custody and control of Verizon Wireless. Verizon Wireless will not object to a request for deposition on the grounds that the prospective deponent is an employee of VCI or any of its subsidiaries (though nothing in this stipulation prevents Verizon Wireless from objecting to a deposition on other grounds).

c. VCI and Verizon Wireless agree that for purposes of conducting a reasonable royalty analysis in this case, any VCI documents or information relevant to the reasonable royalty analysis will be treated the same as if the documents or information were from Verizon Wireless, including but not limited to any profits, revenues, cost savings, or other benefits that VCI received from infringement of the Patents-in-Suit. Verizon Wireless shall not object to damages awarded on the ground that such damages should be assessed against VCI rather than against Verizon Wireless.

d. VCI and Verizon Wireless agree that Verizon Wireless is the proper party to defend against allegations made in this patent infringement lawsuit. Furthermore, VCI and Verizon Wireless warrant that Verizon Wireless and/or any assignee of Verizon Wireless is able to satisfy any judgment against it in this case. VCI and Verizon Wireless each warrant and represent that they will not take any action that will cause Verizon Wireless to be unable to fully satisfy any judgment entered in this case.

3. Barkan expressly does not stipulate or agree to any of the foregoing facts and reserves its right to dispute any of the foregoing factual representations with evidence to the contrary.

4. In reliance upon the representations and warranties made in paragraphs 2(a)–2(d) above, Barkan agrees to dismiss VCI without prejudice as allowed under Rule 41(a)(2) of the Federal Rules of Civil Procedure.

5. Barkan has not released, and nothing in this Stipulation should be construed as a release or discharge of, any claim Barkan has or may have in the future against any defendant named in this action or any other asserted infringer of the patents-in-suit. All rights have been expressly reserved.

Accordingly, Barkan, VCI, and Verizon Wireless request that the Court enter the attached order dismissing VCI without prejudice.

Dated: September 7, 2018

Respectfully submitted,

/s/ Max L. Tribble, Jr., with permission by  
Michael E. Jones

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on September 7, 2018.

/s/ Michael E. Jones  
Michael E. Jones